



Facilities Development Division

Office of Statewide Health Planning and Development

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POLICY INTENT NOTICE (PIN)

SUBJECT

Requests for Seismic Compliance Extensions under SB 499 and SB 1661

PIN: 53

Effective: 12/14/11



PURPOSE

This Policy Intent Notice (PIN) provides a policy for the implementation of the seismic compliance extension provisions of Senate Bill 1661 (Chapter 679, Statute of 2006) and Senate Bill 499 (Chapter 601, Statute of 2009).

BACKGROUND

Senate Bill 1661 and Senate Bill 499 authorize the Office of Statewide Health Planning and Development (OSHPD) to grant a hospital an extension of the seismic compliance deadline of up to an additional two years for a hospital building that it owns or operates. The hospital must meet specified criteria and milestones:

SB 1661 amended Health and Safety Code Section 130060 by adding the following provisions:

(f) (1) A hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) may request an additional extension of up to two years for a hospital building that it owns or operates and that meets the criteria specified in paragraph (2), (3), or (5).

(2) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital building is under construction at the time of the request for extension under this subdivision and the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b).

(B) The hospital building plans were submitted to the office and were deemed ready for review by the office at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital received a building permit for the construction described in subparagraph (A) at least two years prior to the applicable deadline for the building.

(D) The hospital submitted a construction timeline at least two years prior to the applicable deadline for the building demonstrating the hospital's intent to meet the applicable deadline. The timeline shall include all of the following:

- (i) The projected construction start date.*
- (ii) The projected construction completion date.*
- (iii) Identification of the contractor.*

(E) The hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D), but factors beyond the hospital's control make it impossible for the hospital to meet the deadline.

(3) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(4) The office may revoke an extension granted pursuant to this subdivision for any hospital building where the work of construction is abandoned or suspended for a period of at least one year, unless the hospital demonstrates in a public document that the abandonment or suspension was caused by factors beyond its control.

SB 499 further amended Health and Safety Code Section 130060 (f) by replacing items (3) and (4) with the following provisions:

(3) The office may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A) The hospital owner submitted to the office, prior to June 30, 2009, a request for review using current computer modeling utilized by the office and based upon software developed by the Federal Emergency Management Agency, referred to as Hazards US, and the building was deemed SPC-1 after that review.

(B) The hospital building plans for the building are submitted to the office and deemed ready for review by the office prior to July 1, 2010. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that shall be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C) The hospital receives a building permit from the office for the construction described in subparagraph (B) prior to January 1, 2012.

(D) The hospital submits, prior to January 1, 2012, a construction timeline for the building demonstrating the hospital's intent and ability to meet the applicable deadline. The timeline shall include all of the following:

- (i) The projected construction start date.*
- (ii) The projected construction completion date.*
- (iii) Identification of the contractor.*

(E) The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the deadline extension granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F) The hospital owner completes construction such that the hospital meets all criteria to enable the office to issue a certificate of occupancy by the applicable deadline for the building.

(4) A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(5) The office may revoke an extension granted pursuant to this subdivision for any hospital building where the work of construction is abandoned or suspended for a period of at least one year, unless the hospital demonstrates in a public document that the abandonment or suspension was caused by factors beyond its control.

POLICY

This OSHPD policy implements the Senate Bill 1661 and Senate Bill 499 seismic safety compliance provisions regarding extensions to the compliance deadlines. It covers two main topics:

- A discussion of plan approval and permit actions deemed qualifying events for an extension, as given in Health and Safety Code Sections 130060 (f) (2) and 130060 (f) (3).
- A discussion of the types of events that will qualify a building for exemption under Health and Safety Code Sections 130060 (f) (2) (E).

PROCEDURE

Definitions

Main Building Project is the main hospital building construction project for which the compliance extension is requested.

Related Projects are related or “make-ready” projects associated with the *Main Building Project*.

Plan Approval and Permit Actions

Senate Bill 1661 and Senate Bill 499 require that submittal of hospital building plans, permitting, and construction of the *Main Building Project* take place on or before specified dates to establish eligibility for an extension. Construction or seismic retrofit of a hospital building is a complex undertaking, which often occurs in a number of related projects or steps. For example, a seismic retrofit usually requires a series of “make-ready” projects, moving hospital operations to different locations in order to open up areas inside the existing building for the retrofit work.

Work on *Related Projects* is deemed to qualify the *Main Building Project* for an extension for the purposes of complying with Health and Safety Code Sections 130060 (f) (2) and 130060 (f) (3), provided there is a direct correlation between the *Main Building Project* and the *Related Project*. Examples include site preparation projects, demolition projects, and projects to move existing services or prepare spaces to accommodate or facilitate the *Main Building Project*.

To establish the correlation between the *Main Building Project* and *Related Projects*, the hospital should provide:

1. A narrative that describes the submittal milestones and construction timeline for the Main Building Project for which the extension is requested.
2. A description of the manner in which each submittal milestone and construction timeline event is complied with, such as description of the required of the scope of Related Projects and their influence on the critical path milestones for the Main Building Project, the OSHPD project numbers, and relevant dates (submittal, plan approval, and permit dates) for the Main Building Project and Related Projects.

Delays due to factors beyond the hospital's control

Under Senate Bill 1661, extensions may be granted when factors beyond the hospital's control make it impossible for the hospital to meet the deadline. To be eligible for an extension, the *Main Building Project* must be under construction and the hospital must be making reasonable progress toward meeting the timeline submitted at least two years prior to the applicable deadline for the building. Factors beyond the hospital's control include, but are not limited to the following:

- Labor disputes
- Supply chain interruptions
- Acts of God (fire, earthquake, extended periods of severe weather)
- Unforeseen conditions (conditions not previously identified such as the presence of hazardous materials, existing noncompliant conditions that influence the project, unexpected site conditions, etc.)
- Inability to access funds for the project due to market fluctuations and turmoil

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To establish factors beyond the hospital's control, the hospital should provide a narrative that describes the milestones for the Main Building Project, a description of the factors beyond their control which are delaying construction and their influence on the critical path milestones for the Main Building Project, and a revised schedule indicating the length of extension needed to complete the project.

Applications for Seismic Compliance Extensions

Applications for seismic compliance extensions under the provisions of Senate Bill 1661 or Senate Bill 499 should be submitted using OSHPD Form OSH-FD-384, *Application for Extension/Delay in Compliance*. The supporting narrative information described above should be included as attachments to the application.

<u>Original signed</u>	<u>12/14/11</u>
Paul Coleman	Date